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3146 N. VERDUGO RD • GLENDALE, CA 91208-1665 • PH: 818-248-1465 • FAX: 818-248-7359 • EMAIL: pganjian@patentlawagency.com

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Alexandria, VA 22313-1450

Application No.: 10/054,328
Filing Date: 20 JAN 2002
First Named Applicant: ALFRED A. MARGARYAN
Art Unit: 1755
Examiner: BOLDEN, ELIZABETH A.
TITLE: Fluorophosphate glass & method for making thereof

To Commissioner for Patents:

Please find enclosed documents/fees related to the above captioned United States Utility Patent Application on behalf of the inventor(s).

Please date-stamp this letter (or a copy thereof) as an acknowledgement for the receipt of the documents enclosed and return it in the enclosed envelope, which is self-addressed and stamped. MPEP 503

37CFR §1.10:

I hereby certify that this paper and the following documents and/or fees referred to below are being deposited directly with an employee of the United States Postal Service (USPS) on date: 17 FEB 2009 under 37 C.F.R. §1.10, with sufficient postage for Express Mail, delivered by Express Mail Post Office to Addressee service of the USPS with Express Mailing Label No. EH 161914101 US, in an Express Mail envelope addressed to the appropriate Mail Stop (if any) to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Sincerely,

Peter Ganjian
Reg. Patent Agent - 43991

Date: 17 FEB 2009

SPECIFICALLY ITEMIZED PAPERS (MPEP 503):

1. First Named Inventor: Alfred A. Margaryan
2. Title: Fluorophosphate glass & method for making thereof
3. Utility Patent Application Transmittal (1 sheet)
4. Renewed Petition under 37 CFR §1.137(a) and (a) (7 sheets)
5. Return self-addressed, stamped Envelope (1)
6. Express Mail No. EH 161914101 US



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**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	10/054,328
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First Named Inventor	ALFRED A. MARGARYAN
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Examiner Name	BOLDEN, ELIZABETH A.
Attorney Docket Number	

ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): PLEASE SEE REMARKS
Remarks Renewed Petition under 37 CFR §1.137(a) and (a) (7 sheets) Certif. of mailing under 37 cfr 1.10; Return, self-addressed, stamped Envelope (1); Express Mail: EH 161914101 US;		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	PATENT LAW AGENCY, LLC		
Signature			
Printed name	PETER GANJIAN		
Date	17 FEB 2009	Reg. No.	43991

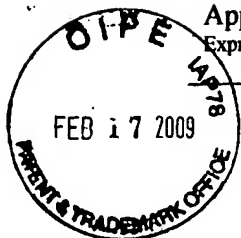
CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	PETER GANJIAN	Date	17 FEB 2009

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Application No.: 10/054,328
Express Mail: EH 161914101 US

Fluorophosphate glass and method for
making thereof

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/054,328
5 Filing Date : 20 JAN 2002
First Named Inventor : Alfred A. MARGARYAN
Petition Examiner : David Bucci
10 Office Action Mailing Date : 06 JAN 2009
Response Due Date : 09 FEB 2009

15 **Renewed Petition under 37 CFR §1.137(a) and (a)**

Mail Stop: PETITIONS
Commissioner for Patents
20 P.O. Box 1450
Alexandria, VA 22313-1450

TO THE COMMISSIONER FOR PATENTS:

In reply to the dismissed petition mailed on 06 JAN 2009, the Applicant(s)
25 respectfully request the entry and consideration of the attached documents (if any) as a
collective statement that the entire delay in filing the required reply from the due date for
the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(a) and (b)
was unavoidable and, indeed, unintentional.

REQUEST FOR RECONSIDERATION OF DISMISSED PETITION:

The following comments direct the Office of Petitions to the exact location of text found within all of the previously submitted petitions and renewed petitions (including their respective attachments) for answers to the comments and questions of the Dismissal Decision of 6 JAN 2009. In order to obtain a better understanding of the circumstances involved and the context within which those texts appear, the Petitioner very respectfully requests the Office of Petitions to revisit, and carefully reread the following previously submitted petitions and renewed petitions, including their respective attachments.

Complete, detailed, and thorough answers to all questions and comments of the Dismissal Decision of 6 JAN 2009 is found in the following submitted documents:

- The “SUPPLEMENTAL STATEMENT ESTABLISHING UNINTENTIONAL DELAY UNDER 37 CFR 1.137(b)” filed 6 JUN 2006, including all attachments;
- The “Renewed Petition under 37 CFR 1.137(b)” filed 23 JULY 2007, including all attachments; and
- The “Additional Sheets Containing Statement Establishing Unavoidable Delay under 37 CFR 1.137(a)” filed 22 OCT 2008, including all attachments.

The following comments are further clarifications related to the comments and questions of the Dismissal Decision of 6 JAN 2009:

The Office of Petitions states on page 2, line 3:

“Petitioner takes the position that the failure to timely reply to the final Office action of November 18, 2003 was due to the actions or inactions of Dr. Lindsey.”

It is respectfully submitted that the Petitioner has always taken the position that the failure of timely reply to the final Office action of November 18, 2003 was due to inappropriate, unethical, fraudulent, deceitful, and unlawful conduct of Dr. Lindsey.

5 The Office of Petition further states on page 2, lines 12 to 14:

“The Petition implies that Beech and Illare never communicated directly with each other from the time of August 15, 2003 Employment Agreement until after the abandonment of the Application.”

10 It is respectfully submitted that the Petitioner did not merely imply that Mr. Beech and Mr. Illare never communicated directly with each other from the time of August 15, 2003 Employment Agreement until after the abandonment of the Application. The Petitioner has always explicitly expressed that no communications were made between Mr. Beech and Mr. Illare, direct or otherwise from the time of August 15, 2003
15 Employment Agreement until after the abandonment of the Application. The evidence from Mr. Beech himself (submitted with the previous petitions and renewed petitions) plainly shows that Mr. Beech and Mr. Illare never communicated. Mr. Illare and Mr. Beech did not know each other.

20 The Office of Petitions on page 2, lines 20-22 state:

“The application record shows that Beech filed timely response to the first Office action (12/19/02) and the second Office action (5/30/03). Did Beech confer with and get instructions from Lindsey and/or Illare before filing these responses?”

25 Mr. Beech conferred with and received instructions from Dr. Lindsey for the first Office action. For the reply to the second office action, Mr. Beech had no choice but to confer and receive instructions from Dr. Lindsey because Mr. Beech was not aware of Mr. Illare or his responsibilities at the time of filing of reply to the second Office action. As has been indicated numerous times in all the petitions and renewed petitions filed, Dr.

Lindsey kept Mr. Beech isolated from all parties, including Dr. Margaryan. Again, the evidence from Mr. Beech himself (submitted with the previous petitions and renewed petitions) plainly shows that Mr. Beech communicated with Dr. Lindsey, and was not at all aware that Mr. Illare was fully responsible for all final decisions regarding any patent matter.

The Office of Petitions on page 2, lines 23-24 states:

“Was Illare aware of the instant patent application at the time of Employment Agreement of August 15, 2003?”

10

Mr. Illare was aware of the existence of a fluorophosphates application at the time of Employment Agreement of August 15, 2003. In fact, as indicated in all of the previously submitted petitions and renewed petitions, Mr. Illare was aware of the existence of a fluorophosphates application even before the Employment Agreement of August 15, 2003. However, again, as indicated in all of the previously submitted petitions and renewed petitions, Mr. Illare did not know any specifics with respect to the instant patent application to identify it to take appropriate action. Despite numerous requests by Mr. Illare for information regarding the instant application, Dr. Lindsey never provided Mr. Illare any information, and always falsely assured Mr. Illare that the patent was on track to be issued.

20

The Office of Petitions on page 2, lines 27 to 28 states:

“At the time Beech received the final Office action, was he aware that Illare was responsible for all final decisions regarding any patent matter?”

25

The evidence from Mr. Beech himself (submitted with the previous petitions and renewed petitions) plainly shows that Mr. Beech was not at all aware that Mr. Illare was fully responsible for all final decisions regarding any patent matter. In fact, as was indicated in all of the previously submitted petitions and renewed petitions Mr. Beech did

not know Mr. Illare. That is one reason why Mr. Beech forwarded all communications to Dr. Lindsey in California, and nothing was mailed to the official company address in Florida. Again, due to Dr. Lindsey's embezzlement of funds from Nano Teknologies, Dr. Lindsey kept all information, including contact information between Mr. Illare and Mr. Beech hidden.

The Office of Petitions on page 2, lines 28-29 states:

"If he [Mr. Beech] was not [aware that Mr. Illare was responsible for all final decisions], when did he [Mr. Beech] become aware of Illare's responsibility in regard to patent matters?"

It was not until the beginning of 2006 that Mr. Beech became ware of Mr. Illare, his position, and responsibilities. For further evidence, please see the following citations from the previously submitted petitions and renewed petitions:

- Supplemental statement establishing unintentional delay under 37 CFR 1.137(b) filed 6 JUN 2006, page 4, lines 23 to 34.
- The petition filed under unavoidable provisions of 37 CFR 1.137(a) filed 22 OCT 2008, page 22, lines 4, to page 23, line 15, which establishes the date of initial contact between Mr. Beech and Mr. Illare based on actual dates of emails exchanged between Dr. Margaryan, Mr. Ashot Margaryan, and Mr. Illare.

The Office of Petitions on page 2, lines 32-33 states:

"The second paragraph on page 10 of the instant petition states that Illare made numerous requests to Lindsey for information regarding the instant application. Specifically, when were these requests made?"

Oral requests were made numerous times by telephone conversations between Dr. Lindsey and Mr. Illare. Regrettably, Dr. Lindsey has passed away, and therefore, cannot

be subpoenaed to provide a written statement affirming the oral requests made by Mr. Illare. As for evidence of written communications in relations to the requests from Mr. Illare, please see the following citations from the previously submitted petitions and renewed petitions:

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- The supplemental statement establishing unintentional delay under 37 CFR 1.137(b) filed on 6 JUN 2006, page 2, line 42 to page 3, line 9.
- The supplemental statement establishing unintentional delay under 37 CFR 1.137(b) filed on 6 JUN 2006, page 4, lines 11 to 12.
- 10 • The renewed petition under 37 CFR 1.137(b) filed on 23 JULY 2007, page 5, lines 24 to page 16, line 19.
- The renewed petition under 37 CFR 1.137(b) filed on 23 JULY 2007, page 11, lines 14 to page 16, line 11.
- 15 • Additional sheets containing statement establishing unavoidable delay under 37 CFR 1.137(b) filed on 22 OCT 2008, page 10, lines 10 to 17, page 17, lines 13 to page 19, line 24.

The Office of Petitions on page 2, lines 34-35 states:

20 “Did Illare make any attempt to contact Beech when it was clear that Lindsey was not responding to his requests?”

25 The short answer is yes. However, Mr. Illare did not know Mr. Beech to contact him. Again, Dr. Lindsey never provided to Mr. Illare any information regarding Mr. Beech. Further, as evidenced from Mr. Beech himself (submitted with the previous petitions and renewed petitions), Mr. Beech did not know Mr. Illare. Of course, after meeting with Dr. Margaryan, Mr. Illare did contact Mr. Beech several times. However, it was not until late 2005, early 2006 that Mr. Beech finally responded after Mr. Illare, his attorney, and Dr. Margaryan all demanded that Mr. Beech immediately forward all information regarding the patent application to Mr. Illare or face legal action.

Please see the following citations from the previously submitted petitions and renewed petitions in relations to Mr. Illare's contact with Mr. Beech:

- 5 • The supplemental statement establishing unintentional delay under 37 CFR 1.137(b) filed on 6 JUN 2006, page 4, line 23 to line 34
- The petition filed under unavoidable provisions of 37 CFR 1.137(a) filed 22 OCT 2008, page 22, lines 4 to page 23, line 15.


10 The Petitioner respectfully requests the entry and consideration of this renewed petition under 37 CFR 1.137(a) and (b), including all attached documents (if any) as a collective statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(a) and (b) was unavoidable, and indeed, unintentional, and respectfully solicit the granting of the

15 petition pursuant to 37 C.F.R. §1.137(a) and (b).

20

February 9, 2009

Date



JACK J. ILLARE, III